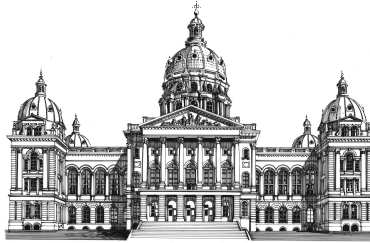


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The Senate
State of Iowa
Eighty-second General Assembly
STATEHOUSE
Des Moines, Iowa 50319

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The Honorable Tom Miller
Attorney General
Hoover Building
Des Moines, Iowa 50319

February 10, 2012

Dear Mr. Attorney General:

Two Iowa school districts have contracted with two different for-profit, out-of-state companies to provide online-only academies next fall. CAM (Cumberland, Anita and Massena) and Clayton Ridge school districts were advised by the Iowa Department of Education (DE) that they were able to:

- Contract with private, out-of-state companies to offer 100 percent online classes
- Open enroll students from other districts into these 100 percent online academy
- CAM and Clayton Ridge will get full per pupil state funding for every student enrolled or open enrolled into this online academy contract (\$6,000 per pupil, plus the local district's property tax portion)
- These students would NOT be considered "HSAP" or home school assistance program students – who get .3 weighted per pupil funding (\$1,800 per pupil)

I have concerns about the new guidance from the Iowa Department of Education regarding legality of these contracts based on current Iowa Code and would like an opinion addressing these areas:

- Iowa school districts are governed under "Dillon's Rule." How are Iowa school districts able to proceed with these contracts when Iowa Code has not given them express permission?
- Permissive language is in Iowa Code to allow Iowa school district the authority to use telecommunications as instruction. Code 256.7(7) Isn't it reasonable to assume this language would guide decisions relating to the ability for private, for-profit companies to open enroll students from across the state into their 100 percent online academies?
- Do you agree that there is not any current Iowa Code that expressly allows schools to contract with private, for-profit companies to open enroll students from across the state into their 100 percent online academies?

- In fact, it appears there is Iowa Code language that specifically states that “telecommunications shall **not** be used by school districts as the exclusive means to provide any course which is required by the minimum educational standards for accreditation” 256.7 (8) Do you agree?
- The Iowa Department of Education (DE) is seeking to strike Iowa Code 256.7 (8) and replace it with the following to allow for online schools in SSB 3309 and HSB 517 (see SSB 3009, Sec. 20):
 - o **SSB 3009, Sec. 20.** Section 256.7, subsection 8, Code Supplement 2011, is amended by striking the subsection and inserting in lieu thereof the following:
8. Adopt rules providing for the establishment of an online learning program model. For purposes of this section and sections 256.9 and 256.27, “*online learning*” means educational instruction and content which is delivered primarily over the internet. “*Online learning*” does not include printed-based correspondence education, broadcast television or radio, videocassettes, or stand-alone educational software programs that do not have a significant internet-based instructional component.

How is it permissive for school districts to move forward with private, for-profit companies to open enroll students from across the state into their 100 percent online academies without these legislative changes?

- The Iowa Department of Education (DE) has dealt with this question before (with the one of the same companies) in 2003. After consulting with the Attorney General at that time, the DE determined they would allow for funding, but only HSAP funding. How is the situation in CAM and Clayton Ridge school districts any different from what the DE advised previously for the Pocahontas Area Community School District (source: <http://www.hslda.org/hs/state/ia/K12update.pdf>)
 - o The memorandum summarizes the DE’s conclusion that students enrolled in the virtual attendance center are **not full-time, regularly enrolled students of the district.**
 - o The Iowa Attorney General’s office concurred with the DE. Accordingly, the DE sent a letter of guidance instructing the districts in which these open enrolled students reside that they should count these students as HSAP students in their certified enrollments.

I look forward to your opinion on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Courtney", with a stylized, cursive script.

Senator Tom Courtney
Chair, Senate Government Oversight Committee